

House Bill 565

By: Representatives Martin of the 47th, Jones of the 46th, Geisinger of the 48th, and Wilkinson of the 52nd

A BILL TO BE ENTITLED
AN ACT

To amend Article 2 of Chapter 3 of Title 3 of the Official Code of Georgia Annotated, relating to prohibited acts relative to alcoholic beverages, so as to make it unlawful for a person under 21 years of age to consume an alcoholic beverage; to authorize the suspension of the driver's license of a person under 21 years of age convicted of consuming an alcoholic beverage; to amend Code Section 40-5-57.1 of the Official Code of Georgia Annotated, relating to the suspension of drivers' licenses of persons under 21 years of age for certain offenses, so as to provide for the suspension of the drivers' licenses of persons under 21 years of age convicted of consuming alcoholic beverages; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 2 of Chapter 3 of Title 3 of the Official Code of Georgia Annotated, relating to prohibited acts relative to alcoholic beverages, is amended by striking subsections (a), (b), and (c) of Code Section 3-3-23, relating to prohibited acts relative to alcoholic beverages and persons under 21 years of age, and inserting in lieu thereof the following:

"(a) Except as otherwise authorized by law:

(1) No person knowingly, directly or through another person, shall furnish, cause to be furnished, or permit any person in such person's employ to furnish any alcoholic beverage to any person under 21 years of age;

(2) No person under 21 years of age shall purchase, attempt to purchase, or knowingly possess any alcoholic beverage;

(2.1) No person under 21 years of age shall knowingly consume any alcoholic beverage;

(3) No person under 21 years of age shall misrepresent such person's age in any manner whatever for the purpose of obtaining illegally any alcoholic beverage;

(4) No person knowingly or intentionally shall act as an agent to purchase or acquire any alcoholic beverage for or on behalf of a person under 21 years of age; or

(5) No person under 21 years of age shall misrepresent his or her identity or use any false identification for the purpose of purchasing or obtaining any alcoholic beverage.

(b) The prohibitions contained in paragraphs (1), (2), (2.1), and (4) of subsection (a) of this Code section shall not apply with respect to the sale, purchase, consumption, or possession of alcoholic beverages for consumption:

(1) For medical purposes pursuant to a prescription of a physician duly authorized to practice medicine in this state; or

(2) At a religious ceremony.

(c) The prohibitions contained in paragraphs (1), (2), (2.1), and (4) of subsection (a) of this Code section shall not apply with respect to the consumption or possession of alcoholic beverages for consumption by a person under 21 years of age when the parent or guardian of the person under 21 years of age gives the alcoholic beverage to the person and when consumption or possession is in the home of the parent or guardian and such parent or guardian is present."

SECTION 2.

Said article is further amended by striking Code Section 3-3-23.1, relating to the procedure and penalties upon violation of Code Section 3-3-23, and inserting in lieu thereof the following:

"3-3-23.1.

(a) It is unlawful for any person knowingly to violate any prohibition contained in Code Section 3-3-23, relating to furnishing alcoholic beverages to, and purchasing, attempting to purchase, consuming, and possession of alcoholic beverages by, a person under 21 years of age.

(a.1) A blood alcohol concentration of 0.02 grams or more in the body of a person under 21 years of age as detected by a chemical test to determine blood alcohol content shall constitute a violation of paragraph (2.1) of subsection (a) of Code Section 3-3-23.

(b)(1) Any person convicted of violating any prohibition contained in subsection (a) of Code Section 3-3-23 shall, upon the first conviction, be guilty of a misdemeanor, except that any person convicted of violating paragraph (2) of subsection (a) of Code Section 3-3-23 shall, upon the first conviction, be guilty of a misdemeanor and shall be punished by not more than six months' imprisonment or a fine of not more than \$300.00, or both and except that any person convicted of violating paragraph (4) of subsection (a) of Code Section 3-3-23 shall, upon the first conviction, be guilty of a misdemeanor of a high and aggravated nature.

(2) Any person convicted of violating any prohibition contained in subsection (a) of Code Section 3-3-23 shall, upon the second or subsequent conviction, be guilty of a

1 misdemeanor of a high and aggravated nature, except that any person convicted of
2 violating paragraph (2) of subsection (a) of Code Section 3-3-23 shall, upon the second
3 or subsequent conviction, be guilty of a misdemeanor.

4 (3) In addition to any other penalty provided for in paragraphs (1) and (2) of this
5 subsection, the driver's license of any person convicted of attempting to purchase an
6 alcoholic beverage in violation of paragraph (2) of subsection (a) of Code Section 3-3-23
7 upon the first conviction shall be suspended for six months and upon the second or
8 subsequent conviction shall be suspended for one year.

9 (4) In addition to any other penalty provided for in paragraphs (1) and (2) of this
10 subsection, the driver's license of any person convicted of consuming an alcoholic
11 beverage in violation of paragraph (2.1) of subsection (a) of Code Section 3-3-23 may be
12 suspended by order of the sentencing court for up to six months.

13 (c) Whenever any person who has not been previously convicted of any offense under this
14 Code section or under any other law of the United States or this or any other state relating
15 to alcoholic beverages pleads guilty to or is found guilty of a violation of paragraph (2),
16 (2.1) or (3) of subsection (a) of Code Section 3-3-23, the court, without entering a
17 judgment of guilt and with the consent of such person, may defer further proceedings and
18 place such person on probation upon such reasonable terms and conditions as the court may
19 require. The terms of probation shall preferably be such as require the person to undergo
20 a comprehensive rehabilitation program (including, if necessary, medical treatment), not
21 to exceed three years, designed to acquaint such person with the ill effects of alcohol abuse
22 and with knowledge of the gains and benefits which can be achieved by being a good
23 member of society. Upon violation of a term or condition of probation, the court may enter
24 an adjudication of guilt and proceed accordingly. Upon fulfillment of the terms and
25 conditions of probation, the court shall discharge such person and dismiss the proceedings
26 against him or her. Discharge and dismissal under this subsection shall be without court
27 adjudication of guilt and shall not be deemed a conviction for purposes of this subsection
28 or for purposes of disqualifications or disabilities imposed by law upon conviction of a
29 crime. Discharge and dismissal under this subsection may occur only once with respect to
30 any person.

31 (d) Unless the officer has reasonable cause to believe such person is intoxicated, a law
32 enforcement officer may arrest by issuance of a citation a person accused of violating only
33 paragraph (2) or (2.1) of subsection (a) of Code Section 3-3-23. The citation shall
34 enumerate the specific charges against the person and either the date upon which the person
35 is to appear and answer the charges or a notation that the person will be later notified of the
36 date upon which the person is to appear and answer the charges. If the person charged shall
37 fail to appear as required, the judge having jurisdiction of the offense may issue a warrant

1 or other order directing the apprehension of such person and commanding that such person
2 be brought before the court to answer the charges contained within the citation and the
3 charge of his or her failure to appear as required. Nothing in this subsection shall be
4 construed to invalidate an otherwise valid arrest by citation of a person who is intoxicated.

5 (e) A law enforcement officer arresting a person by the issuance of a citation under
6 subsection (d) of this Code section may require any such person having a driver's license
7 or instruction permit to deposit such license or permit with the arresting officer in order to
8 ensure the appearance of such person to answer the charges against him or her. The
9 procedures and rules connected with the acceptance of such license or permit and
10 subsequent disposition of the case shall be the same as provided for the acceptance of a
11 driver's license as bail on arrest for traffic offenses pursuant to Code Section 17-6-11.

12 (f) In addition to any other punishment or sentence, the court may order all persons
13 convicted under subsection (b) of this Code section or sentenced under subsection (c) of
14 this Code section to complete a DUI Alcohol or Drug Use Risk Reduction Program
15 prescribed by the Department of Human Resources within 120 days of such conviction or
16 sentence. Failure to complete such program within 120 days shall be contempt of court and
17 shall be punished by a fine of not more than \$300.00 or 20 days imprisonment, or both. If
18 the conviction or sentence results from a charge of unlawful possession of alcoholic
19 beverages while operating a motor vehicle, the court shall report such conviction or
20 sentence to the Department of Motor Vehicle Safety within ten days after conviction or
21 sentencing."

22 SECTION 3.

23 Code Section 40-5-57.1 of the Official Code of Georgia Annotated, relating to the suspension
24 of licenses of persons under age 21 for certain offenses, is amended by adding at its end a
25 new subsection (d) to read as follows:

26 "(d) Upon receipt of a report of conviction of a violation of paragraph (2.1) of subsection
27 (a) of Code Section 3-3-23 which contains a court order for license suspension of up to six
28 months, the department shall suspend the offender's license for the period specified in the
29 court order."

30 SECTION 4.

31 This Act shall become effective July 1, 2005, and shall apply with respect to offenses
32 committed on or after that date. Prior offenses shall be governed by prior law.

33 SECTION 5.

34 All laws and parts of laws in conflict with this Act are repealed.